

THE NEWS OF NORFOLK ON PAGES 2, 3 & 5.

COURT DECISIONS.

DIGESTED BY W. B. MARTIN.

EXCLUSIVELY FOR
VIRGINIAN-PILOT.Notes of Cases Recently Decided,
Which are of Interest to
Our People.

BAKER V. BREM.

Supreme Court of North Carolina.
April 17, 1900.

THE SERVICE OF A SUMMONS BY A TOWN CONSTABLE, WHICH WAS NOT DIRECTED TO HIM AS CONSTABLE OF SUCH TOWN IS A NULLITY. A JUSTICE ISSUING SUCH A DEFECTIVE WARRANT CANNOT AMEND IT, AND OBTAINS NO JURISDICTION UNDER IT.

The Court says: The justice of the peace who issued the summons in this case (the action being for the recovery of personal property) deputized John Wall to execute and return it. The return of the summons was signed, "J. A. Wall, D." The letter "D" is supposed to stand for "Deputy," but whose deputy is not stated, nor do we know. The defendant's counsel moved to dismiss the action on the following grounds: "That J. A. Wall being the constable only of an incorporated town and not a township or general constable, had no power or authority to serve the summons or other process in this action, for the reason that such summons and process were not directed to him in the name of the office he holds; that is, as constable of the town of Morganton." The case was heard on its merits by the justice of the peace, after he had overruled the motion of the defendant, and in the superior court the same motion was made and overruled. There was a judgment for the plaintiff, and the defendant appealed.

The question presented by the appeal is whether the service of the summons made by Wall is a nullity. If so, the motion of the defendant to dismiss the action should have been allowed, and the permission given to the plaintiff to amend the summons by having it directed to "J. A. Wall, Marshal of the Town of Morganton," ought not to have been granted. In the defendant's motion to dismiss the action, Wall is admitted to be the town constable of Morganton, and that is the only evidence of that fact in the record. Under the charter of Morganton, the town constable may execute precepts issued to him by the mayor when such precepts are issued to him as constable; but we do not see in the town charter any civil jurisdiction given to the mayor except actions upon penalties and fines. But the justice of the peace under section 3,816 of the Code, Wall, being a town constable, was authorized to serve the summons directed to "any constable or other lawful officer of Burke county" by virtue of his office as constable of the town of Morganton. That section of the Code authorizes city and town constables to serve all civil or criminal process that may be directed to them by any court within their respective counties, etc., and this court held in Davis v. Sanderlin that process could not be served by a constable outside of his town or city, where the process was directed to "any constable or other lawful officer of said county," and that to enable a constable of a city or town to serve court process such process must be directed (addressed) to him, as required by the Code, not necessarily by name, but officially as the constable of his city or town, and that the law is the same if a constable undertakes to serve process within the limits of the town or city. In all cases where constables undertake to execute process under section 3,816 of the Code, they can do so only in those cases where the process is directed (addressed) to them as constables of such city or town. The defendant, then, was not before the court by a proper service of summons on him when he made the motion, in a special appearance for that purpose, to dismiss the action, and therefore the amendment allowed by the justice of the peace to the plaintiff to amend the summons on its face so as to have it directed to "J. A. Wall, Marshal of the Town of Morganton," ought not to have been allowed. Under section 668 of the Code there is a liberal system provided for the amendment of process, but while such amendments can be made to show jurisdiction, they cannot be extended to confer jurisdiction.

Reversed.

HOUSE V. BLUM.
Court of Civil Appeals of Texas.
February 3, 1900.

A RAILROAD COMPANY IS LIABLE FOR THE DEATH OF A BOY, WHO, ALARMED BY THE THREATS OF ITS EMPLOYEES, JUMPED FROM A MOVING TRAIN, ALTHOUGH HE WAS A TRESPASSER.

This was an action for damages for the death of a boy who jumped on a train and afterwards jumped off again while it was in motion and was killed. From a verdict for plaintiff the company appealed.

The Court says: It appearing from the petition in this case that the alleged act of deceased in jumping on the railway train directly contributed to his injury, appellant would not be liable for damages resulting from such injury and consequent death of deceased, unless its employees in charge of said train were guilty of such intentional wrong as to render their negligence a willful disregard of their duty to deceased. Upon a general demurrer every reasonable intent is given to the allegations of a petition, and we cannot say that the allegation in the petition that the employees in charge of the train recklessly forced the deceased to jump from the cars while in motion, and deceased alarmed by the orders, pursuit, and threats of said employees, jumped from the cars while in motion, and thereby received the injury which caused his death, is not a sufficient allegation of such willful negligence on the part of said employees as would render appellant liable, notwithstanding the alleged act of deceased contributed to his injury. We find the petition sufficient to sustain the demurrer, and the trial court did not err in so holding.

[The court then went over the evidence was granted a new trial on the ground that it did not sustain the allegations of the petition.]

Reversed.

METHODIST PREACHERS MEET

HEAR REPORTS—DISCUSS TWENTIETH CENTURY FUND AND STATE ORPHANAGE.

The Methodist preachers' meeting was called to order at the usual hour yesterday morning by the president, Rev. R. M. Chandler. Prayer was offered by Rev. W. E. Jenkins, Presiding Elder of the Norfolk and Eastern Shore Districts.

Reports were heard from the following churches:

Trinity—Rev. Geo. Wesley Jones had "Children's Day" services Sunday morning and preached at night. Large congregations present at both services.

Central, Portsmouth—Rev. Joseph Smith, of the Philadelphia Conference, preached for Rev. W. P. Beadle, morning and night, two very fine sermons.

Owens Memorial—Rev. R. T. Waterfield preached morning and night, and received two new members.

Queen Street—The pastor, Rev. S. C. Hatcher preached at 11 a. m. and Dr. W. E. Jenkins at 8 p. m.

Cumberland Street—Rev. W. E. Jenkins preached in the morning and Rev. S. C. Hatcher at 5:30 in the afternoon. The pastor, Rev. Dr. Johnson, dedicated the new Methodist Church at Bloxom, on the Eastern Shore of Virginia.

At Liberty Street, South Norfolk—Rev. J. T. Martin preached in the afternoon of the Twentieth Century fund at 11 o'clock services and the pastor at night.

Rev. J. W. Bledsoe preached at Centenary Church in the morning, and presented the claims of the Methodist Orphanage, and the pastor, Rev. R. M. Chandler, preached at 6 p. m.

Rev. Graham H. Lambeth preached morning and night at Lakes Memorial and received one member on profession of faith and one by letter.

Rev. James Cannon, Jr., preached at Epworth Church at both services Sunday, and presented the claims of the Twentieth Century fund.

Rev. James Cannon, Jr., spoke briefly on the subject of the Twentieth Century fund. Among other things he said that the country churches have taken hold of the subject wherever it has been presented with more earnestness and enthusiasm than in the city churches, and have liberally responded to the call for contributions.

He thought that if all the preachers in the cities would give a two weeks' canvass of a personal character and present the claims of the movement strongly before their people the desired end would be accomplished.

Dr. Jenkins followed Mr. Cannon, giving an account of what had been done in certain sections of the Eastern Shore District.

STATE METHODIST ORPHANAGE.

Rev. Dr. Bledsoe, who has the management of the Virginia State Methodist Orphanage, spoke in the interest of that institution, pressing upon the members present the importance of their following up the resolutions passed at the last preachers' meeting by concerted efforts. He said it would be a grand achievement for the Methodists in this section to raise the \$15,000 for this central or administration building and adopt as its name "The Seaside Methodist Memorial Building." (Revs. R. E. Beades, E. H. Rawlings, Graham H. Lambeth, J. T. Martin and R. M. Chandler spoke earnestly on the subject, each speaker showing his hearty sympathy in the movement and his desire to move in the best possible direction for the accomplishment of the end in view.)

The following offered by Rev. J. T. Martin was unanimously adopted:

Whereas, Appreciating the importance of uniting our efforts that we may afford the most effectual and valuable aid in establishing our Virginia Conference Orphanage, and confidently believing that our charges represented in the cities by the sea and the charges contiguous to these could and will by concerted effort raise the amount needed for constructing the central or administration building of the orphanage, which building if it is established, will cost about \$15,000; therefore,

Resolved 1st. That we will undertake this work, and that we will secure the co-operation of our people that we may accomplish the end had in view.

Resolved 2d. That we will adopt such methods as will enable us to complete the undertaking of raising funds by cash or subscriptions before the first day of June, 1901.

Resolved 3d. That the charges of Hampton, Newport News and the charges contiguous be requested to unite with us in the effort.

Rev. Graham H. Lambeth was requested to accompany Dr. Bledsoe to Hampton and Newport News and urge the claims of the orphanage upon the Methodists there.

The president announced that the religious service postponed from this meeting will be held next Sunday morning, and that Rev. J. W. Crider would conduct it.

LAMBERT'S POINT.

Dr. I. N. Farmer was taken suddenly ill at his home on Myers avenue about 9 o'clock yesterday morning and was still very sick at 6:30 last evening.

Rev. John W. Carroll preached a strong temperance sermon for the W. C. T. U. at the Methodist Church Sunday night. The members of the union were in the auditorium. There was a large congregation present. At the close of the sermon Mrs. R. H. Jones read an interesting paper on "Temperance," passed by the General Conference of the M. E. Church at its recent session.

Miss Pearl Price and Mr. George Me-

**ITCHING
Burning Scaly
HUMORS**
Instantly Relieved by
One Application of
CUTICURA

INSTANT RELIEF AND SPEEDY CURE TREATED.—A warm bath with SOAP, a single anointing with CUTICURA Ointment, and a full dose of CUTICURA RESOLVENT will afford instant relief, permit rest and sleep, and point to a speedy, permanent, and economical cure when all else fails.

Sold every where. Price, Three Cents, 25 Cents, or CUTICURA RESOLVENT, 50 Cents. Prepared by J. C. FORTENBERRY, DRUGGIST, 100 N. 3rd St., Philadelphia, Pa.

Gulre, of this place, were married in Norfolk Sunday by Rev. Father Drake, of the Sacred Heart Catholic Church. They are residing at the home of the bride's mother on Thirty-ninth street.

Mrs. Lillian Owens is very sick at the home of Mrs. Thomas Capps, of Shenandoah avenue.

Mr. Peyton Rice, who has been dangerously ill for weeks at the residence of Mr. Organ, on Seelye avenue, was removed to the Protestant Hospital Saturday by his attending physician.

Rev. George W. Cox administered the ordinance of baptism by immersion to two candidates in the river near the Country Club Sunday afternoon. A large gathering was present to witness the ceremony.

Miss Gussie Jeffries will entertain her friends with a social at her home on Myers avenue next Friday night.

Rev. John W. Carroll, of the Methodist Church, baptized a lady by immersion in the river near the Conover farm yesterday afternoon.

Lambert's Lodge, Knights of Pythias, is making arrangements for a public installation of its officers on the first Monday night in July. It is proposed to have a special program of music and recitations at the close of the installation ceremony. The families of the members and their friends will be invited. This lodge initiated a class of eight at its regular meeting last night.

BRAMBLETON.

About 6:30 o'clock yesterday evening Mr. W. T. Hicks, of West Highland avenue, died suddenly in his wagon on the ferryboat while returning home from Berkeley.

Mr. Hicks was in conversation with several persons at the steamer's dock in Berkeley and also after the boat had left for Norfolk, and was apparently in good health. After the steamer had entered her dock in Norfolk and the passengers had come on shore it was noticed by the deck hands that the wagon was still on the boat, and on going to it it was discovered that Mr. Hicks was dead. The wagon containing the body was moved to the southeast corner of Water street and Commercial Place, where Coroner Newton viewed the body, who decided that an inquest was unnecessary, and stated that Mr. Hicks' death was caused from excessive heat. The deceased was at one time possessed of a considerable fortune and was a member of the firm of Ludlow & Hicks, who conducted an extensive confectionery establishment on Commercial Place where L. W. Davis now carries on the cigar business on the site where B. R. Sale formerly ran a hotel and restaurant. The deceased married the daughter of the late R. H. Lee, Street Inspector. For a number of years Mr. Hicks had charge of the routes of the Norfolk Virginian. His family has been peculiarly unfortunate in the way of sudden deaths. One of his sons was killed by a street car some years ago on the corner of Bank and Queen streets. About five years ago another son dropped dead. At the time of his demise Mr. Hicks was in the employ of the Southern Candy Company. A widow and several children are left to mourn his sad end. Arrangements have not yet been made for his funeral. It will probably take place Wednesday.

The regular weekly business meeting of the Anna Gordon Y. will be held at the home of Miss Mary Whitehurst, 150 South Kelly avenue, this evening at 8 o'clock. Plans for the coming lawn party will be discussed, and other business of importance will be transacted. All members are urged to attend.

A lawn party will be given on the beautiful grounds of the residence of Mrs. E. J. Whitehurst, South Kelly avenue, from 6 to 11 o'clock this evening for a charitable cause.

The hour of Sunday evening service at St. Peter's P. E. Church has been changed to 8:15 o'clock.

Bids for Dredging.

Bids were opened at the office of United States Engineer Casey, in Norfolk, yesterday for dredging the waterway from Norfolk to Albemarle Sound. There were two bids, as follows: Norfolk Dredging Company, 78 cents per cubic yard; John L. Mills, Camden, N. J., 70 cents.

Jumped the Tracks.

Trolley car No. 146 jumped the tracks at the farther end of their trestle over Mahone's Lake about 3 o'clock yesterday afternoon. There were no passengers on the car, and no damage was done beyond the delay of traffic for a short time.

For Benefit of Orphans.

On Tuesday, June 26th, an excursion will be given for the benefit of St. Mary's Orphan Asylum to Soldiers' Home. The boat used will be one of the Old Dominion liners.

THE WINDWARD.

READY TO CARRY OUR FLAG TO THE ARCTIC SEAS.

St. Johns, N. F., June 9.—The Peary Arctic steamer "Windward" is ready to come out of the dry dock to-day, having fully completed the extensive repairs which have been in progress for several months, and will shortly leave for Sydney, C. B., under command of Captain Samuel W. Harlett, to take on coal and supplies for her voyage to the North. While the new engines desired have not been obtained, in consequence of the utter inability of manufacturers both in Great Britain and in America to make up the contract, a new shaft and propeller have been supplied, the old engines thoroughly overhauled and put in the best possible order, so that at least a knot and one half an hour in speed has been gained, bringing the "Windward" up to the "Kite" of 1891-1892 and 1895 expeditions. In addition, the hull has been thoroughly rebuilt, strengthened both within and without, and the "Windward," as a whole, is in far better condition than she has been for years, new boilers having been installed by Mr. Harmsworth shortly before he turned her over to Mr. Peary in 1893.

HIER NATIONALITY.

The Windward will this year sail as an American ship, so far as her nationality is concerned. The necessary legislation by Congress having been approved by President McKinley, though not having entered an American port, the formal register has not yet been issued. Capt. Bartlett has, however, a copy of the act, certified by the Secretary of the Treasury, upon which the United States consuls and foreign authorities of any port will permit the Windward to fly the Stars and Stripes. The rebuilt

Windward will be, therefore, the first Arctic expedition steamer to carry the Stars and Stripes at the peak since the ill-fated Polaris left the Brooklyn Navy-yard in July, 1871, under command of Captain Charles F. Hall, and who died on board a few months later.

SAIL FROM SYDNEY.

The expedition will sail from Sydney about July 1st, and proceed directly, with a call at Disco, to Etah, North Greenland. Mr. Peary's winter quarters, where instructions from him will doubtless be found, or if not, will be awaited. The Windward will take with her the maximum quantity of coal which she can carry, additional lumber, oil, sugar, arms, ammunitions, provisions, scientific instruments, and everything which is necessary for Mr. Peary's work. The Windward also takes two new whaleboats, built at New Bedford, for the Peary service, thoroughly equipped in every detail.

It is, however, quite possible that Mr. Peary may have attained the Pole this Spring, in which case he will of course return with the ship; if not, the additional equipment, with what remains of the forty tons of supplies left at Etah by the Diana last year, will be ample for the remainder of the time which he will devote to his work. Upon the arrival of the Windward at Etah Mr. Peary will assume command, and her further movements will be subject to the conditions of his work and to his instructions. No passengers will be taken on the Windward, the Danish government having qualified their permission to land at the Greenland ports, with the conditions that tourists should not be carried. Mrs. Peary and Miss Peary, however, will go north on the steamer as far as Etah, and it is probable that the Windward, if she returns, will bring home the Robert Stein party, landed near Cape Sabine by the Diana in August last.

OFFICIAL SEA TRIAL.

BATTLESHIP KENTUCKY TO BE TRIED ON 25TH INSTANT.

(By Telegraph to Virginian-Pilot.)

Washington, D. C., June 11.—The Naval Board has been notified that the battleship Kentucky will be ready for her official two days' sea trial on the 25th inst. The trial will start from Old Point, R. I. The Kentucky's ready launch, which will speed trial and has been accepted in a preliminary way by the Navy Department, will be used to take place in the Potomac. The ship has actually been in commission several months, and has been kept near her home yard so long only because it was deemed expedient to have her within reach of speedy repair in case some defect should develop.

THE GOLD DEMOCRATS.

WILL AWAIT THE ACTION OF THE TWO REGULAR CONVENTIONS.

(By Telegraph to Virginian-Pilot.)

New York, June 11.—George Foster Peabody, chairman of the National Committee of the Gold Democrats to-day, made the following statement with reference to the meeting of the committee in Indianapolis, July 25:

"The question of a third ticket must stand in abeyance until after the two conventions have been held and the platforms of the Republican and Democratic parties definitely announced. For this reason the meeting of the National Committee, which Secretary Jno. P. Frenzel of Indiana, has been authorized to call, was set for July 25. Whether a third candidate will be run depends upon whether the continuances represented by the various delegates regard it as expedient or not. If the committee decides to call the convention the party platform will be the same as that represented by Peabody and Buchanan four years ago, except that the imperialistic issue will play an important part."

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